

1 **R277. Education, Administration.**

2 **R277-516. ~~[Education Employee]~~Background Check Policies and Required**
3 **Reports of Arrests [and Required Background Check Policies]for Licensed**
4 **Educators, Volunteers, Non-licensed Employees, and Charter School**
5 **Governing Board Members.**

6 **R277-516-[2]1. Authority and Purpose.**

7 ~~[A.]~~(1) This rule is authorized by:

8 (a) Utah Constitution Article X, Section 3, which vests the general control and
9 supervision of the public schools in the Board~~[-];~~;

10 ~~(b)(i) [by]~~Subsections 53A-1-301(3)(a) and 53A-1-301(3)(d)(x), which instruct
11 the Superintendent to perform duties assigned by the Board that include:

12 (ii) presenting to the Governor and the Legislature each December a report
13 of the public school system for the preceding year that includes:

14 (A) investigation of all matters pertaining to the public schools~~[-];~~ and

15 (B) statistical and financial information about the school system which the
16 Superintendent considers pertinent;

17 ~~(c) [by]~~Subsections 53A-1-402(1)(a)(i) and (iii), which direct the Board to:

18 (i) establish rules and minimum standards for the public schools regarding the
19 qualification and certification of educators and ancillary personnel who provide direct
20 student services~~[-];~~ and

21 (ii) the evaluation of instructional personnel; and

22 ~~(d) [by]~~Title 53A, Chapter 15, Part 15, Background Checks, which directs the
23 Board to require educator license applicants to submit to background checks and
24 provide ongoing monitoring of licensed educators.

25 ~~[B.]~~(2) The purpose of this rule is ensure that all students who are compelled
26 by law to attend public schools, subject to release from school attendance consistent
27 with Section 53A-11-102, are instructed and served by public school teachers and
28 employees who have not violated laws that would endanger students in any way.

29 **R277-516-[4]2. Definitions.**

30 ~~[A. "Board" means the Utah State Board of Education.]~~

31 ~~[B.]~~(1) "Charter school governing board" means a board designated by a

32 charter school to make decisions for the operation of the charter school.

33 ~~[C.](2)~~ “Charter school board member” means a current member of a charter
34 school governing board.

35 ~~[D.](3)~~ “Comprehensive Administration of Credentials for Teachers in Utah
36 Schools (CACTUS)” means the database maintained on all licensed Utah educators,
37 which includes information such as:

38 ([1]a) personal directory information;

39 ([2]b) educational background;

40 ([3]c) endorsements;

41 ([4]d) employment history;

42 ([5]e) professional development information;

43 ([6]f) completion of employee background checks; and

44 ([7]g) a record of disciplinary action taken against the educator.

45 ~~[E.](4)~~ “Contract employee” means an employee of a staffing service who
46 works at a public school under a contract between the staffing service and the public
47 school.

48 ~~[F.](5)~~ “DPS” means the Department of Public Safety.

49 ~~[G.](6)~~ “LEA” or “local education agency” ~~[means a school district, a charter~~
50 ~~school, or,]for purposes of this rule[;]~~ includes the Utah Schools for the Deaf and the
51 Blind.

52 ~~[H.](17)(a)~~ “Licensed educator” means an individual who holds a valid Utah
53 educator license and has satisfied all requirements to be a licensed educator in the
54 Utah public school system (examples are traditional public school teachers, charter
55 school teachers, school administrators, USOE and school district specialists).

56 ([2]b) A licensed educator may or may not be employed in a position that
57 requires an educator license.

58 ([3]c) A licensed educator includes an individual who:

59 ([a]i) is student teaching;

60 ([b]ii) is in an alternative route to licensing program or position; or

61 ([c]iii) ~~[an individual who]~~ holds an LEA-specific competency-based license.

62 ~~[I.](8)~~ “Non-licensed public education employee” means an employee of a an
63 LEA who:

64 ([4]a) does not hold a current Utah educator license issued by the Board
65 under Title 53A, Chapter 6, Educator Licensing and Professional Practices; or

66 ([2]b) is a contract employee.

67 [J.](9) “Public education employer” means the education entity that hires and
68 employs an individual, including public school districts, the Utah State Office of
69 Education, Regional Service Centers, and charter schools.

70 [~~K. “Superintendent” means the State Superintendent of Public Instruction or~~
71 ~~the Superintendent’s designee.~~

72 ~~—— L. “USOE” means the Utah State Office of Education.]~~

73 (10) “Utah Professional Practices Advisory Commission” or “UPPAC” means
74 an advisory commission established to assist and advise the Board in matters
75 relating to the professional practices of educators, established in Section 53A-6-301.

76 [~~M.](11) “Volunteer” means a volunteer who may be given significant~~
77 ~~unsupervised access to children in connection with the volunteer’s assignment.~~

78 **R277-516-3. Licensed Public Education Employee Personal Reporting of**
79 **Arrests.**

80 [~~A.](1) A licensed educator who is arrested, cited or charged with the following~~
81 ~~alleged offenses shall report the arrest, citation, or charge within 48 hours or as soon~~
82 ~~as possible to the licensed educator's district superintendent, charter school director~~
83 ~~or designee:~~

84 ([4]a) any matters involving an alleged sex offense;

85 ([2]b) any matters involving an alleged drug-related offense;

86 ([3]c) any matters involving an alleged alcohol-related offense;

87 ([4]d) any matters involving an alleged offense against the person under Title
88 76, Chapter 5, Offenses Against the Person;

89 ([5]e) any matters involving an alleged felony offense under Title 76, Chapter
90 6, Offenses Against Property;

91 ([6]f) any matters involving an alleged crime of domestic violence under Title
92 77, Chapter 36, Cohabitant Abuse Procedures Act; and

93 ([7]g) any matters involving an alleged crime under federal law or the laws of
94 another state comparable to the violations listed in Subsections [R277-516-3A(1)-

~~(6)](a) through (f).~~

~~[B-](2)~~ A licensed educator shall report convictions, including pleas in abeyance and diversion agreements within 48 hours or as soon as possible upon receipt of notice of the conviction, plea in abeyance or diversion agreement.

~~[C-](3)~~ An LEA superintendent, director, or designee shall report conviction, arrest or offense information received from a licensed educator to the Superintendent within 48 hours of receipt of information from a licensed educator.

~~[D-](4)~~ The Superintendent shall develop an electronic reporting process on the USOE website.

~~[E-](5)~~ A licensed educator shall report for work following an arrest and provide notice to the licensed educator's employer unless directed not to report for work by the employer, consistent with school district or charter school policy.

R277-516-4. Non-licensed Public Education Employee, Volunteer, and Charter School Board Member Background Check Policies.

~~[A-](1)~~ An LEA shall adopt a policy for non-licensed public education employee, volunteer, and charter school board member background checks that includes at least the following components:

~~[(1)]a)~~ a requirement that the individual submit to a background check and ongoing monitoring through registration with the systems described in Section 53A-15-1505 as a condition of employment or appointment; and

~~[(2)]b)~~ identification of the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA only receives notifications for individuals with whom the LEA maintains an authorizing relationship.

~~[B-](2)~~ An LEA policy shall describe the background check process necessary based on the individual's duties.

R277-516-5. Non-licensed Public Education Employee~~[-or]~~, Volunteer, or Charter School Board Member Arrest Reporting Policy Required from LEAs.

~~[A-](1)~~ An LEA shall have a policy requiring a non-licensed public employee[s], a volunteer, a charter school board member[s], ~~[and all]~~ or any other employee[s] who drives a motor vehicle[s] as an employment responsibility, to report

125 offenses specified in Subsection [R277-516-5C](3).

126 ~~[B-]~~(2) An LEA shall post the policy described in Subsection [R277-516-5A](1)
127 on the LEA's website.

128 ~~[C-]~~(3) An LEA's policy described in Subsection [R277-516-5A](1) shall
129 include the following minimum components:

130 ([1]a) reporting of the following:

131 ([a]i) convictions, including pleas in abeyance and diversion agreements;

132 ([b]ii) any matters involving arrests for alleged sex offenses;

133 ([c]iii) any matters involving arrests for alleged drug-related offenses;

134 ([d]iv) any matters involving arrests for alleged alcohol-related offenses; and

135 ([e]v) any matters involving arrests for alleged offenses against the person
136 under Title 76, Chapter 5, Offenses Against the Person.

137 ([2]b) a timeline for receiving reports from non-licensed public education
138 employees;

139 ([3]c) immediate suspension from student supervision responsibilities for
140 alleged sex offenses and other alleged offenses which may endanger students
141 during the period of investigation;

142 ([4]d) immediate suspension from transporting students or public education
143 vehicle operation or maintenance for alleged offenses involving alcohol or drugs
144 during the period of investigation;

145 ([5]e) adequate due process for the accused employee consistent with
146 ~~S[ub]section 53A-[3-410(10)]~~15-1506;

147 ([6]f) a process to review arrest information and make employment or
148 appointment decisions that protect both the safety of students and the confidentiality
149 and due process rights of employees and charter school board members; and

150 ([7]g) timelines and procedures for maintaining records of arrests and
151 convictions of non-licensed public education employees and charter school board
152 members.

153 ~~[D-]~~(4) An LEA shall ensure that the records described in R277-516-
154 ~~5[C](3)~~([7]g):

155 (a) include final administrative determinations and actions following
156 investigation; and

(b) are maintained:
(i) only as necessary to protect the safety of students; and
(ii) with strict requirements for the protection of confidential employment information.

R277-516-6. Public Education Employer Responsibilities Upon Receipt of Arrest Information.

~~[A:]~~(1) A public education employer that receives arrest information about a licensed public education employee shall review the arrest information and assess the employment status consistent with Section 53A-6-501, Rule R277-515, and the LEA's policy.

~~[B:]~~(2) A public education employer that receives arrest information about a non-licensed public education employee, volunteer, or charter school board member shall review the arrest information and assess the individual's employment or appointment status:

(~~[1]~~a) considering the individual's assignment and duties; and

(~~[2]~~b) consistent with a local board-approved policy for ethical behavior of non-licensed employees, volunteers, and charter school board members.

~~[C:]~~(3) A local board shall provide appropriate training to non-licensed public education employees, volunteers, and charter school board members about the provisions of the local board's policy for self-reporting and ethical behavior of non-licensed public education employees, volunteers, and charter school board members.

~~[D:]~~(4) A public education employer shall cooperate with the Superintendent in investigations of licensed educators.

R277-516-7. Misconduct Notification Requirements and Procedures.

(1)(a) An educator who has reasonable cause to believe that a student may have been physically or sexually abused by a schools employee shall immediately report that belief to the school principal, district superintendent, or UPPAC, in addition to any other reports required by law.

(b) A school administrator who receives a report described in Subsection

187 (1)(a) shall immediately submit the information to UPPAC if the employee is licensed
188 as an educator.

189 (2) A local superintendent or charter school director shall notify UPPAC if an
190 educator is determined, pursuant to an administrative or judicial action, to have had
191 disciplinary action taken for, or, to be guilty of:

192 (a) unprofessional conduct or professional incompetence that:

193 (i) results in suspension for more than one week or termination; or

194 (ii) otherwise warrants UPPAC review; or

195 (b) immoral behavior.

196 (3) An educator who fails to comply with Subsection (1) may:

197 (a) be found guilty of unprofessional conduct; and

198 (b) have disciplinary action taken against the educator.

199 **KEY: school employees, self reporting**

200 **Date of Enactment or Last Substantive Amendments: 2015**

201 **Notice of Continuation: June 10, 2014**

202 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-301(3)(a);**

203 **53A-1-301(3)(d)(x); 53A-1-402(1)(a)(i); 53A-1-402(1)(a)(iii)**